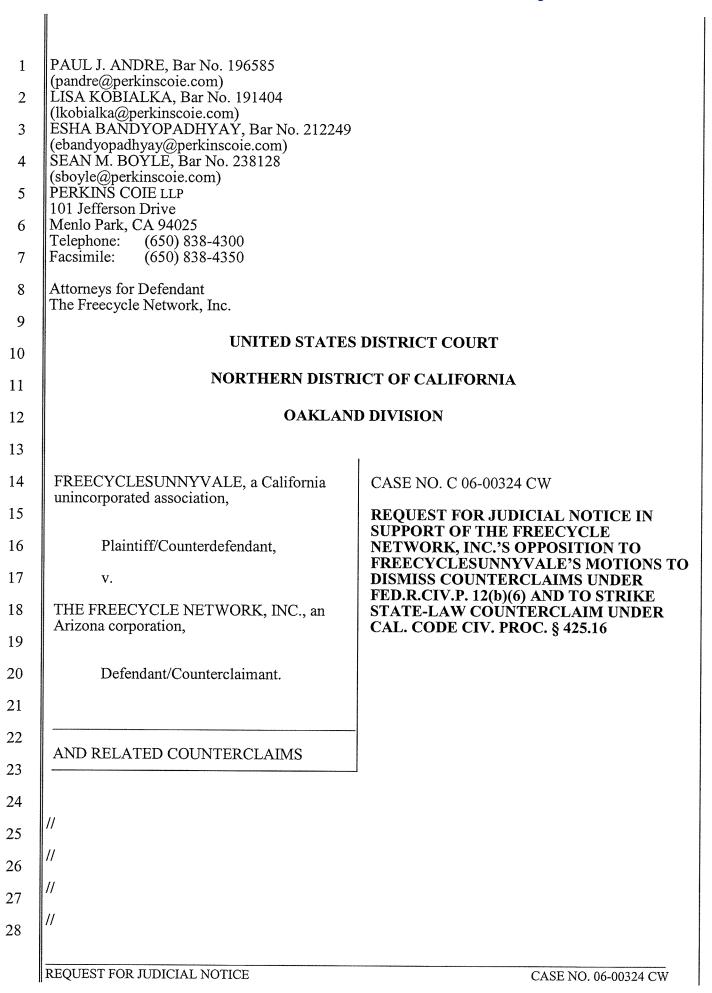
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complete file history and in order for The Freecycle Network to adequately respond to

Counterdefendant's motion, this Court should take judicial notice of PTO records.

INTRODUCTION

Defendant/Counterclaimant The Freecycle Network, Inc. ("The Freecycle Network") respectfully requests this court to take judicial notice of court records from the Unites States Patent and Trademark Office under FED. R. EVID. 201. In its Request for Judicial Notice (Docket No. 49), Plaintiff/Counterdefendant FreecycleSunnyvale ("Counterdefendant") did not present the complete file history of the Trademark/Service Mark Application, Principal Register, Serial No. 78/475,113 (administrative file available at http://www.uspto.gov). Also, Counterdefendant has raised an issue of materiality with respect to the PTO's proceedings and seeking to strike The Freecycle Network's allegations made in its counterclaims. In order to have the benefit of the

This court may take judicial notice of the PTO records pertaining to these applications under FED.R.EVID. 201(b), which permits judicial notice of facts that are not subject to reasonable dispute because those facts are "generally known" or "capable of accurate and ready determination". The public record in the PTO pertaining to The Freecycle Network's trademark registration application is not reasonably subject to dispute. In addition, the Ninth Circuit has specifically held that courts "may take judicial notice of records and reports of administrative bodies." Interstate Natural Gas Co. v. Southern California Gas Co., 209 F.2d 380, 385 (9th Cir. 1953). See also Transmission Agency of Northern California v. Sierra Pacific Power Co., 295 F.3d 918, 924 n.3 (9th Cir. 2002) (taking judicial notice of FERC decision still subject to administrative and judicial review); cf. Hoganas AB v. Dresser Industries, 9 F.3d 948, 954 n.27 (Fed. Cir. 1994) (taking judicial notice of patent not in appeal record but referenced at argument); Standard Havens Products, Inc. v. Gencor Industries, Inc., 897 F.2d 511, 514 n.3 (Fed. Cir. 1990) (taking judicial notice of first office action in patent reexamination).

REQUEST FOR JUDICIAL NOTICE The Freecycle Network respectfully requests this Court that take judicial notice of the PTO administrative records concerning The Freecycle Network's trademark registration application file history attached to this request as Exhibit 1. DATED: September 15, 2006 PERKINS COIE LLP /s/ Lisa Kobialka Ву___ Paul J. Andre Lisa Kobialka Esha Bandyopadhyay Sean Boyle Attorneys for Defendant The Freecycle Network, Inc. REQUEST FOR JUDICIAL NOTICE CASE NO. C 06-00324 CW